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REPORT OF THE INTERNATIONAL COURT OF JUSTICE

Secretary-General's Trust Fund to Assist States in the Settlement of Disputes through the International Court of Justice

Report of the Secretary-General

1. The present report is issued pursuant to paragraph 15 of the Terms of Reference, Guidelines and Rules of the Secretary-General's Trust Fund to Assist States in the Settlement of Disputes through the International Court of Justice (see annex).

2. In connection with the item entitled "Report of the International Court of Justice", the Secretary-General announced on 1 November 1989 the establishment of the above-mentioned Trust Fund, following his consultations with the President of the International Court of Justice (ICJ). Several States spoke in support of the Secretary-General's initiative (A/44/PV.43, pp. 7-17). The Terms of Reference of the Trust Fund, which were issued at the time of the announcement, set out, inter alia, the reasons for establishing the Fund and its objectives and purpose, as well as the procedures and requirements for Applications (see annex).

3. Over the years, the United Nations has adopted numerous legal instruments and has taken various steps to promote and overcome obstacles to the settlement of disputes between States by judicial means. The Trust Fund is intended to provide a practical means of overcoming financial obstacles to the judicial settlement of legal disputes by offering limited financial assistance to States to encourage them to reach a solution of their disputes through the ICJ.

4. The Fund is open to all States Parties to the Statute of the International Court of Justice and to non-Member States having complied with

the conditions stipulated in Security Council resolution 9 (1946) of 15 October 1946. The use of the Fund is, however, limited to cases brought before ICJ in which the jurisdiction of the Court is not a contentious point. Therefore, there can be no challenge to the Court's involvement. By using this requirement, the Secretary-General sought to prevent criticism of partiality.

5. In order to ensure objectivity and to obtain technical advice, a panel of high-level experts is to be established in each case to examine the Application and to make recommendations to the Secretary-General regarding the amount of assistance to be awarded and the types of expenses to be covered (e.g., preparation of memoranda, fees for agents and counsel, costs of producing maps and charts, etc.). The Financial Regulations and Rules of the United Nations are applicable to the administration of the Fund, which is also subject to the auditing procedures provided therein. The Fund is financed by voluntary contributions from States, intergovernmental organizations, national institutions, non-governmental organizations as well as individuals and corporations.

6. In January 1990, a communication was sent to all States Parties to the Statute of ICJ to inform them of the creation of the Secretary-General's Trust Fund and to invite their support and financial contributions.

7. The Fund received its first Application in March 1991 from a developing country which was seeking to resolve a territorial dispute with its neighbour through ICJ. On the recommendation of the Panel of Experts set up in accordance with the Terms of Reference, an award was made by the Secretary-General to the Applicant to defray expenses partly incurred in reproduction (including maps), printing and translation of documents submitted by the Applicant to ICJ. The amount awarded was limited corresponding to the amounts which had been collected in the Fund.

8. In September 1991, the Secretary-General received a second application also from a developing country. The case, which had already been submitted to ICJ, was related to a boundary dispute between two neighbouring States. The Secretary-General communicated with the Applicant Government with a view to obtaining the necessary documents to complete the Application. On the basis of the recommendation of the Panel of Experts established to examine the Application, the Secretary-General again provided a limited amount of assistance to the Applicant to defray its expenses in cartography, transport and per diem incurred in connection with its submission of the case to ICJ.

9. In October 1991, the Secretary-General made new appeals to States to urge them to make contributions to the Trust Fund. Also for this purpose, learned institutions, major international law journals and publishing houses having a special interest in the field of international law were approached. They were not only asked for funds, but were also requested to publicize the Fund. To facilitate this kind of promotion, a background note on the Trust Fund was appended to each communication addressed to the institutions. According to replies received, some recipients published in their journals or magazines the

background note in full or in part; others chose to publish the note in the form of an announcement or communication to their members.

10. Since its creation, 34 States have contributed a total of $583,705 to the Fund; the names of these countries are listed below:

Country	Date
Austria	1991
Chad	1990
China	1990
Cyprus	1989
Czechoslovakia	1990, 1991
Denmark	1991
Dominica	1990, 1991
Fiji	1990
Finland	1991, 1992
France	1990, 1991, 1992
Germany	1991
Greece	1991
Hungary	1990, 1992
Indonesia	1990
Japan	1991
Luxembourg	1992
Maldives	1990
Malta	1990, 1991
Mexico	1991
Morocco	1992
Netherlands	1991
New Zealand	1990
Norway	1990
Oman	1990
Senegal	1990
Singapore	1992
Spain	1991, 1992
Sri Lanka	1992
Sweden	1991, 1992, 1993
Switzerland	1991
Togo	1990
United Kingdom of Great Britain and Northern Ireland	1990
Venezuela	1991
Zambia	1990

ANNEX

Terms of Reference, Guidelines and Rules of the Secretary-General's Trust Fund to Assist States in the Settlement of Disputes through the International Court of Justice

Reasons for establishing the Trust Fund

1. The United Nations has a special role in the maintenance of peace and security. The Charter of the United Nations recognizes settlement of international disputes "by peaceful means, and in conformity with the principles of justice and international law" as a basic purpose of the United Nations and as an essentiaL tool for the maintenance of international peace and security. The importance of peaceful settlement of disputes has been reiterated in numerous legal instruments of the United Nations, including the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations of 24 October 1970 and the Manila Declaration on the Peaceful Settlement of International Disputes of 15 November 1982. In the Manila Declaration the General Assembly stressed once again that States should be encouraged to settle disputes by making full use of the provisions of the Charter of the United Nations, in particular those concerning the peaceful settlement of disputes. The Assembly also stated that recourse to judicial settlement of legal disputes, particularly referral to the International Court of Justice, should not be considered an unfriendly act between States.

2. The Court is the principal judicial organ of the United Nations. Its judgments represent the most authoritative pronouncement on international law. As follows from Article 36, paragraph 3, of the Charter, the Court is also the principal organ for resolving legal disputes between States. The Secretary-General, as the Chief Administrative Officer of the Organization, has, therefore, a special responsibility to promote judicial settlement through the Court.

3. Legal disputes may arise in various parts of the world over a wide variety of issues. There are occasions where the parties concerned are prepared to seek settlement of their disputes through the International Court of Justice, but cannot proceed because of the lack of legal expertise or funds. There may also be cases where the parties are unable to implement an ICJ decision for the same reasons. In all such cases the availability of funds would advance the peaceful settlement of disputes.

4. The cost which may be incurred by ICJ proceedings is a factor which may in some instances discourage States from resorting to the Court. In arbitration, the parties bear the costs of the arbitrators and the maintenance of the tribunal (e.g., the registry, etc.). The administrative costs of the Court are borne by the United Nations. But, as in arbitration, the parties must bear the costs of agents, counsel, experts and witnesses, and the

preparation of memorials and counter-memorials, etc. The total can be considerable. Thus, costs can be a factor in deciding whether a dispute should be referred to the International Court of Justice. The availability of funds would therefore be helpful for States which lack the necessary funds.

5. The United Nations has extensive experience in providing assistance to countries for their industrial and economic development. This experience could be utilized to assist States in obtaining the necessary legal expertise to facilitate settlement of disputes.

Object and purpose of the Trust Fund

6. This Trust Fund (hereinafter referred to as "the Fund") is established by the Secretary-General under the Financial Regulations and Rules of the United Nations. The purpose of the Fund is to provide, in accordance with the terms and conditions specified herein, financial assistance to States for expenses incurred in connection with: (a) a dispute submitted to the International Court of Justice by way of a special agreement, or (b) the execution of a judgment of the Court resulting from such special agreement.

Contributions to the Fund

7. The Secretary-General invites States, intergovernmental organizations, national institutions and non-governmental organizations, as well as natural and juridical persons, to make voluntary financial contributions to the Fund.

Application for financial assistance

8. An application for financial assistance from the Fund may be submitted by any State Member of the United Nations, any State party to the Statute of the International Court of Justice or a non-Member State having complied with Security Council resolution 9 (1946), which has concluded a special agreement for the purpose of submitting a specific dispute to the International Court of Justice for judgment. The Application shall be accompanied by:

(a) A copy of the special agreement referred to;

(b) An itemized statement of the estimated costs for which financial assistance is requested from the Fund;

(c) An undertaking that the requesting State shall supply a final statement of account providing details of the expenditures made from the approved amounts, to be certified by an auditor acceptable to the United Nations.

Establishment of a Panel of Experts

9. For each request for financial assistance, the Secretary-General will establish a Panel of Experts composed of three persons of the highest judicial and moral standing. The task of the Panel is to examine the application on

the basis of paragraph 8 above, to recommend to the Secretary-General the amount of financial assistance to be given and the types of expenses for which the assistance may be used (e.g., preparation of memorials, counter-memorials and replies); fees for agents, counsel, advocates, experts or witnesses; legal research fees; costs related to oral proceedings (e.g., interpretation into and/or from languages other than English and French); expenses of producing technical materials (e.g., reproduction of cartographic evidence); and costs relating to the execution of an ICJ judgment (e.g., demarcation of boundaries).

10. The work of the Panel of Experts shall be conducted in strict confidentiality.

11. In considering an application, the Panel of Experts shall be guided solely by the financial needs of the requesting State and availability of funds.

12. Travel expenses and subsistence allowance are payable to members of the Panel of Experts from the Fund.

Granting of assistance

13. The Secretary-General will provide financial assistance from the Fund on the basis of the evaluation and recommendations of the Panel of Experts. Payments will be made against receipts evidencing actual expenditures for approved costs.

Application of the Financial Regulations and Rules of the United Nations

14. The Financial Regulations and Rules of the United Nations shall apply to the administration of the Trust Fund. The Fund shall be subject to the auditing procedures provided therein.

Reporting

15. An annual report on the activities of the Fund will be made to the General Assembly.

Implementing office

16. The Office of Legal Affairs is the implementing office for the Trust Fund and will provide the services required for the operation of the Fund.

Revision

17. The Secretary-General may revise the above if circumstances so require.